

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

KARLIS RUBEN AUGUSTUS  
HOWARD,

Plaintiff,

v.

RODRIGUEZ,

Defendant.

No. 1:24-cv-00285-JLT-SAB (PC)

FINDINGS AND RECOMMENDATIONS  
RECOMMENDING DENIAL OF  
PLAINTIFF'S MOTION FOR TEMPORARY  
RESTRAINING ORDER

(ECF No. 19)

Plaintiff is proceeding pro se and in forma pauperis in this action filed pursuant to 42 U.S.C. § 1983.

Currently before the Court is Plaintiff's motion for a temporary restraining order, filed August 22, 2024.

**I.**

**DISCUSSION**

This action is proceeding against Defendant Rodriguez for failure to protect in violation of the Eighth Amendment.

In his current motion, Plaintiff seeks injunctive relief against inmate Scott Stansell because he assaulted Plaintiff on April 7, 2023 causing physical injury. (ECF No. 19.) Since the

assault Plaintiff has suffered from post-traumatic stress disorder. (Id.)

A temporary restraining order is an extraordinary measure of relief that a federal court may impose without notice to the adverse party if, in an affidavit or verified complaint, the moving party “clearly show[s] that immediate and irreparable injury, loss, or damage will result to the movant before the adverse party can be heard in opposition.” Fed. R. Civ. P. 65(b)(1)(A).

The standard for issuing a temporary restraining order is essentially the same as that for issuing a preliminary injunction. Stuhlbarg Int’l Sales Co. v. John D. Brush & Co., 240 F.3d 832, 839 n.7 (9th Cir. 2001) (analysis for temporary restraining orders and preliminary injunctions is “substantially identical”). The primary purpose of a preliminary injunction is preservation of the status quo. See, e.g., Ramos v. Wolf, 975 F.3d 872, 887 (9th Cir. 2020). More specifically, the purpose of a preliminary injunction is preservation of the Court's power to render a meaningful decision after a trial on the merits. See, e.g., Univ. of Texas v. Camenisch, 451 U.S. 390, 395 (1981); Barth v. Montejo, 2021 WL 1291962, at \*1 (E.D. Cal. Apr. 7, 2021).

The legal principles applicable to requests for injunctive relief, such as a temporary restraining order or preliminary injunction, are well established. To prevail, the moving party must show that irreparable injury is likely in the absence of an injunction. See Stormans, Inc. v. Selecky, 586 F.3d 1109, 1127 (9th Cir. 2009) (citing Winter v. Natural Res. Def. Council, Inc., 555 U.S. 7, 20–22 (2008)); see also All. for the Wild Rockies v. Cottrell, 632 F.3d 1127, 1131 (9th Cir. 2011). To the extent prior Ninth Circuit cases suggest a lesser standard by focusing solely on the possibility of irreparable harm, such cases are “no longer controlling, or even viable.” Am. Trucking Ass’ns, Inc. v. City of Los Angeles, 559 F.3d 1046, 1052 (9th Cir. 2009); Stormans, 586 F.3d at 1127; Cottrell, 632 F.3d at 1131. Under Winter, the proper test requires a party to demonstrate: (1) he is likely to succeed on the merits; (2) he is likely to suffer irreparable harm in the absence of an injunction; (3) the balance of hardships tips in his favor; and (4) an injunction is in the public interest. See, e.g., Winter, 555 U.S. at 20; Stormans, 586 F.3d at 1127.

A preliminary injunction is an extraordinary remedy that is not awarded as of right. Winter, 555 U.S. at 24. The burden to achieve injunctive relief is particularly high when a party seeks a mandatory injunction. See Garcia v. Google, Inc., 786 F.3d 733, 740 (9th Cir. 2015).

1 Federal Rule of Civil Procedure 65 governs injunctions and restraining orders, and requires that a  
 2 motion include “specific facts in an affidavit or a verified complaint [that] clearly show that  
 3 immediate, and irreparable injury, loss, or damage will result to the movant before the adverse  
 4 party can be heard in opposition,” as well as written certification from the movant's attorney  
 5 stating “any efforts made to give notice and the reasons why it should not be required.” Fed. R.  
 6 Civ. P. 65(b). Further, the injunctive relief an applicant requests must relate to the claims brought  
 7 in the complaint. See Pac. Radiation Oncology, LLC v. Queen’s Med. Ctr., 810 F.3d 631, 633  
 8 (9th Cir. 2015) (“When a Plaintiff seeks injunctive relief based on claims not pled in the  
 9 complaint, the court does not have the authority to issue an injunction.”). Absent a nexus  
 10 between the injury claimed in the motion and the underlying complaint, the court lacks the  
 11 authority to grant Plaintiff any relief. Id. at 636.

12 The Prison Litigation Reform Act (“PLRA”) imposes additional requirements on prisoner  
 13 litigants seeking preliminary injunctive relief against prison officials. In such cases,  
 14 “[p]reliminary injunctive relief must be narrowly drawn, extend no further than necessary to  
 15 correct the harm the court finds requires preliminary relief, and be the least intrusive means  
 16 necessary to correct that harm.” 18 U.S.C. § 3626(a)(2); Villery v. California Dep’t of Corr., 2016  
 17 WL 70326, at \*3 (E.D. Cal. Jan. 6, 2016). As the Ninth Circuit has observed, the PLRA places  
 18 significant limits upon a court's power to grant preliminary injunctive relief to inmates, and  
 19 “operates simultaneously to restrict the equity jurisdiction of federal courts and to protect the  
 20 bargaining power of prison administrators—no longer may courts grant or approve relief that  
 21 binds prison administrators to do more than the constitutional minimum.” Gilmore v. People of  
 22 the State of California, 220 F.3d 987, 998-99 (9th Cir. 2000). The court’s jurisdiction is “limited  
 23 to the parties in this action” and the pendency of an action “does not give the Court jurisdiction  
 24 over prison officials in general or over the conditions of an inmate’s confinement unrelated to the  
 25 claims before it.” Beaton v. Miller, 2020 WL 5847014, at \*1 (E.D. Cal. Oct. 1, 2020); Zepeda v.  
 26 U.S. I.N.S., 753 F.2d 719, 727 (9th Cir. 1983). A motion for preliminary injunction must be  
 27 supported by “[e]vidence that goes beyond the unverified allegations of the pleadings.” Fidelity  
 28 Nat. Title Ins. Co. v. Castle, No. C-11-00896-SI, 2011 WL 5882878, \*3 (N.D. Cal. Nov. 23,

2011) (citing 9 Wright & Miller, Federal Practice & Procedure § 2949 (2011)). The plaintiff, as the moving party, bears the burden of establishing the merits of his or her claims. See Winter, 555 U.S. at 20.

Here, Plaintiff's motion does not demonstrate that he is likely to succeed on the merits, that he will suffer irreparable harm in the absence of an injunction, that the balance of equities tips in his favor, or that an injunction is in the public interest. Further, the pendency of this action does not give the Court jurisdiction over prison officials in general. Summers v. Earth Island Inst., 555 U.S. 488, 491–93 (2009); Mayfield v. United States, 599 F.3d 964, 969 (9th Cir. 2010). The Court's jurisdiction is limited to the parties in this action and to the viable legal claims upon which this action is proceeding. Summers, 555 U.S. at 491–93; Mayfield, 599 F.3d at 969.

Although the Court has found that Plaintiff states a cognizable claim against Defendant Rodriguez and ordered service of the third amended complaint, Defendant Rodriguez has not yet appeared in the action. A federal district court may issue injunctive relief only if it has personal jurisdiction over the parties and subject matter jurisdiction over the lawsuit. See Paccar Int'l, Inc. v. Commercial Bank of Kuwait, S.A.K., 757 F.2d 1058, 1061 (9th Cir. 1985). The Court may not attempt to determine the rights of persons not before it. See Zepeda v. United States Immigration & Naturalization Serv., 753 F.2d 719, 727 (9th Cir. 1985) ("A federal court may issue an injunction if it has personal jurisdiction over the parties and subject matter jurisdiction over the claim; it may not attempt to determine the rights of persons not before the court."). In addition, Plaintiff's request for relief is now moot since he is no longer confined at Wasco State Prison—where the alleged assault occurred. Due to his transfer to a different prison, Plaintiff cannot demonstrate any irreparable harm that will befall him in the absence of injunctive relief. See Zenith Radio Corp. v. Hazeltine Research, Inc., 395 U.S. 100, 130-31 (1969). Accordingly, Plaintiff's motion for injunctive relief should be denied.

## II.

### RECOMMENDATION

Based on the foregoing, it is HEREBY RECOMMENDED that Plaintiff's motion for a temporary restraining order be denied.

1 This Findings and Recommendation will be submitted to the United States District Judge  
2 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within **fourteen (14)**  
3 **days** after being served with this Findings and Recommendation, Plaintiff may file written  
4 objections with the Court. The document should be captioned “Objections to Magistrate Judge’s  
5 Findings and Recommendation.” Plaintiff is advised that failure to file objections within the  
6 specified time may result in the waiver of rights on appeal. Wilkerson v. Wheeler, 772 F.3d 834,  
7 838-39 (9th Cir. 2014) (citing Baxter v. Sullivan, 923 F.2d 1391, 1394 (9th Cir. 1991)).

8 IT IS SO ORDERED.

9  
10 Dated: **August 23, 2024**

  
UNITED STATES MAGISTRATE JUDGE